

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0574V

Filed: September 22, 2017

UNPUBLISHED

LINCOLN JOHN, and DASWATTIE JOHN, as parents and Natural Guardians of K.J., a minor child,

Petitioners,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU); Ruling on Entitlement; Uncontested; Causation-In-Fact; Influenza (Flu) Vaccine; Guillain-Barre Syndrome (GBS)

Isaiah Richard Kalinowski, Maglio Christopher & Toale, PA, Washington, DC, for petitioners.

Lisa Ann Watts, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On May 12, 2016, Lincoln and Daswattie John (“petitioners”), as the parents and natural guardians of their minor son, K.J., filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioners allege that that K.J. suffered Guillain-Barré syndrome (“GBS”) as a result of the following vaccines administered to him on May 12, 2014: influenza (flu) vaccine, varicella vaccine, and/or measles-mumps-rubella (MMR) vaccine; and/or as a result of the following vaccines administered to him on June 12, 2014: hepatitis A (Hep A) vaccine; diphtheria-tetanus-acellular pertussis (Dtap) vaccine,

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

haemophilus influenza type B (HIB) vaccine, and pneumococcal conjugate (Prevnar) vaccine. Petition at ¶¶ 1-23. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 22, 2017, respondent filed his Rule 4(c) report in which he states that he does not contest that petitioners are entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent states that "petitioners have satisfied the criteria set forth in the newly revised Vaccine Injury Table and the Qualifications and Aids to Interpretation." *Id.* at 4 (internal citations omitted). Respondent further states that although the revised Vaccine Injury Table only governs petitions filed on or after the effective date of the final rule, the evidence shows that K.J. suffered GBS following the administration of a seasonal flu vaccine, and that the onset occurred within the time period specified in the Table. *Id.* at 4-5. Recognizing that petitioners may re-file this petition and be afforded a presumption of causation under the revised Table, respondent will not contest entitlement to compensation in this case. *Id.*

In view of respondent's position and the evidence of record, the undersigned finds that petitioners are entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master